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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,485	03/12/2001	August Sprock	HM-394PCT	5638

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Friedrich Kueffner
317 Madison Avenue
Suite 910
New York, NY 10017

EXAMINER
YEE, DEBORAH

ART UNIT	PAPER NUMBER
1742	18

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/744,485	Applicant(s) SPROCK, AUGUST	
	Examiner Deborah Yee	Art Unit 1742	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Deborah Yee

DEBORAH YEE
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: It is the examiner's position that the English translation of Japanes patent 57-104650 discloses specific examples 4 to 8 in Table 2 on page 16 having a dual phase of 10 to 30 vol% martensite and 70 to 90 vol% ferrite which are processed in the same manner as claimed by applicant. Note page 14 wherein steel examples are subjected to hot rolling with a finishing temperature of 825C followed by cooling at 20C/sec (C1) to 600C to produce a microstructure of 70-90 vol% ferrite with an untransformed austenite balance, and then subjected to faster cooling at 60C/sec (C2) to a coiling temperature to convert untransformed austenite into martensite
. It was argued that the present invention clearly prescribes that a particular parameter of the microstructure (ferrite content) must have reached a certain value in the first cooling stage before the second cooling stage is begun. Although prior art does not require that a specific ferrite content must be present before the second cooling step is initiated, it is already suggested by the prior art examples 4 to 8 wherein first cooling produces 70-90 vol% ferrite. It was further argued that the invention is carried out without defining a temperature or time limit while the JP'650 employs instead a predetermined cooling rate and temperature limits and thus a resulting cooling time. It is the examiner's position that claim 5 also requires temperature limits, such as first cooling occurs in the ferrite region (temperature dependent) and second cooling occurs below martensitic start temperature, which are met by the prior art.. Although present invention does not recite time parameters, such are inferred by claim 5. Note that to produce 70-90 vol% ferrite , the steel has to be held at ferritic temperature for a certain amount of time or too little or too much ferrite is produced, and the same applies to 30% or less martensite. Regardless of how the process parameter are defined, the temperature, time, and microstructure produced are all interrelated. It was submitted that JP'650 discloses a method for a specific steel composition yet the present invention is a generic method and requires no compositional limitation. It is the examiner's position that JP'650 meets the recited steps and therefore would be within applicant's generic method claim.

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